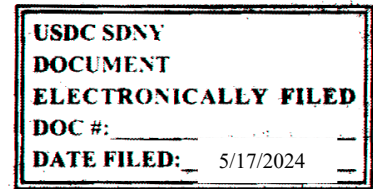


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



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IBM CORPORATION,

22-cv-9910(VB)(VR)

Plaintiff,

OPINION & ORDER

-against-

MICRO FOCUS (US) INC.,

Defendant.

-----X
VICTORIA REZNIK, United States Magistrate Judge:

The Court recently issued a ruling on Micro Focus’s motion to exclude. (ECF Nos. 208 – 214). On March 18, 2024, Micro Focus filed a pre-motion letter¹ in connection with this dispute and requested leave to redact the pre-motion letter and file the accompanying exhibits under seal. (ECF No. 203). The Court directed IBM to respond to this request, and on March 26, 2024, IBM filed a letter requesting that the Court grant Micro Focus’s request. (ECF No. 207).

To overcome the presumption of public access afforded to filed documents, the Court must make specific, on the record findings that sealing is (1) necessary “to preserve higher values,” and (2) “is narrowly tailored to serve that interest.” *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 120 (2d Cir. 2006). Courts in this District routinely permit parties to seal or redact commercially sensitive information to protect confidential business interests and financial information. *See, e.g., Rubik’s Brand Ltd. v. Flambeau, Inc.*, No. 17-CV-6559 (PGG) (KHP), 2021 WL 1085338, at *1 (S.D.N.Y. Mar. 22, 2021). The Court has reviewed the parties’

¹ A redacted version was publicly filed as ECF No. 204. A version only viewable to “selected parties” was filed as ECF Nos. 205 and 205-1 to 205-11.

proposed redactions and determined that they are narrowly tailored and redact only commercially sensitive information to protect confidential business interests.

Consequently, the Clerk of Court is requested to keep ECF Nos. 205 and 205-1 to 205-11 as accessible only to selected parties. The Clerk of Court is also requested to close out the gavel on ECF No. 203.

Lastly, when Micro Focus filed their motion papers and reply papers, they included requests to file redacted versions and to seal some accompanying exhibits in their entirety. (ECF Nos. 208, 220). IBM included a similar request when they filed their opposition. (ECF No. 215). Neither party has responded to each other's request to seal these motion papers. Consequently, by Friday, May 24, 2024, the parties should submit a joint letter stating their respective positions on each other's requests to seal.

SO ORDERED.

DATED: White Plains, New York
May 17, 2024



VICTORIA REZNIK
United States Magistrate Judge